IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 3.2.2007

CORAM

THE HON'BLE MR.JUSTICE P.D. DINAKARAN

C.M.A.No.1939 of 1999

Jayachandran .. Appellant/Petitioner

Vs.

1. K.A.Swamy
2. United India Insurance Co.
   Madras. .. Respondents/Respondents

Appeal against the order dated 30.3.1990 made in MACTOP No.376 of 1986 on the file of the Motor Accident Claims Tribunal, (II Additional Sub Judge), Chengalpet.

For Appellant : Mr.S.Udayakumar
For Respondent-1 : Mr.Karumuthullah
For Respondent-2 : Mr.K.S.Narasimhan

J U D G M E N T

(Delivered by P.D.DINAKARAN, J)

The above appeal is directed against order dated 30.3.1990 made in MACTOP No.376 of 1986 on the file of the Motor Accident Claims Tribunal, (II Additional Sub Judge), Chengalpet.

2. On 8.3.1983, at about 8.30 pm, when the appellant was supervising the loading of milk in Ambattur Milk Dairy, the lorry bearing registration No.TNJ 967, driven in negligent manner, dashed the appellant and ran over on his right leg, due to which his right leg was fractured. He claimed a compensation of Rs.65,000/-.

3.1. The Tribunal, taking note of the fact that the deceased was aged about 22 years; working in a private lorry service and earning Rs.750/- per month and batta of Rs.5/- or Rs.10/- per day; taking treatment in Kilpauk Medical Hospital for 17 days from 8.3.1983 to 24.3.1983 as inpatient and at Puthur till the month of July as per

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Exs.P2 & P3, awarded Rs.4,000/- towards loss of income, Rs.1,000/- towards transportation, Rs.6,000/- towards pain and suffering, Rs.13,000/- towards permanent disability, Rs.14,000/- towards loss of earning capacity and Rs.5,000/- towards mental shock.

3.2. However, since the place of accident is not a public place, where general public do not have a right to access, the Tribunal held that the second respondent Insurance Company is not liable to pay compensation and only the owner is liable to pay compensation.

4. When the matter is taken up for hearing, the learned counsel for the second respondent Insurance Company fairly submits that in view of the decision in United India Insurance Co. Ltd. v. Parvathi and Others (1999 TLNJ 144), the insurance company is liable to pay compensation.

5. When a question, whether the expression 'public place' would cover all places including those of private ownership where members of the public have an access whether free or controlled in any manner whatsoever or it would cover only places where any member of the public will have access of right to those places, whether public or private, was referred to a Full Bench of this Court for consideration in United India Insurance Co. Ltd. v. Parvathi and Others (1999 TLNJ 144), the Full Bench, following the ratio laid down by the Full Bench of Bombay High Court in Pandurang Chimaji Agale and another v. New India Life Insurance Company Ltd. (1988 II ACJ 674) that all places where the members of public have an access, would be covered by the definition of 'public place' and therefore, the insurance company is liable to pay compensation, held that the expression 'public place' would cover all places including those of private ownership where members of the public have an access whether free or controlled in any manner whatsover.

6. The Motor Vehicles Act is a beneficial legislation. Accordingly, the law of interpretation has to be construed in the benefit of public. In the overall legal position, if the language is simple and unambigous, it has to be construed in the benefit of the public.

7. That apart, the definition of public place is very wide. It would reveal that the public at large has a right to access though that right is regulated or restricted. The legal right of access is not essential to constitute a public place.

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8. In view of the ratio laid down by the Full Bench of this Court in the decision cited supra, the award of the Tribunal is modified to the extent that the compensation shall be paid to the appellant by the Insurance Corporation.

The appeal is disposed of accordingly. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

kpl

To

The II Additional Sub Judge
Motor Accident Claims Tribunal
Chengalpet.

+1cc to Mr.K.S.Narasimhan, Advocate Sr 6507
+1cc to Mr.S.Udhayakumar, Advocate SR 6374

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km/24.3.

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